

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 09-50779

In re:

Chapter 7

Dennis E. Hecker,

**RESPONSE TO NOTICE OF HEARING AND MOTION
FOR ORDER AUTHORIZING RULE 2004 EXAMINATION**

Debtor.

I. INTRODUCTION

First National Bank submits the following response to the motion (the “Motion”) of Randall L. Seaver, the Chapter 7 trustee of the above-captioned bankruptcy estate (“Trustee”) dated September 2, 2009, for authority to conduct Bankruptcy Rule 2004 Examinations.

II. ANALYSIS

As this Court is well aware, the scope of a 2004 examination is limited to “the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or to the debtor’s right to a discharge.” FED.R.BANKR.P. 2004 (b). Examinations of an entity regarding ““matters having no relationship to the bankrupt’s affairs or the administration of his estate...is improper.” COLLIER ON BANKRUPTCY, King, 15th ed. Rev., ¶ 2004.02[2] (citing *Keene Corp. v. Johns-Manville Corp* (*In re Johns-Manville Corp.*), 42 B.R. 362, 364 (S.D.N.Y. 1984); *In re Coffee Cupboard, Inc.*, 128 B.R. 509, 514 (Bankr.E.D.N.Y. 1991); *In re Financial Corp. of Am.*, 119 B.R. 728, 733 (Bankr.C.D.Cal. 1990); *In re Wilcher*, 56 B.R. 428, 433 (Bankr.N.D.Ill. 1985); *In re Express One Int’l, Inc.*, 217 B.R. 215, 216 (Bankr.E.D.Tex. 1998)).

Here, the proposed examination of First National Bank will have no relationship with Dennis Hecker (“Debtor”) or any of his various entities. As demonstrated in the attached

affidavit, First National Bank reviewed its records and found no relationship with Debtor or any entities in which Debtor was involved. Therefore, First National Bank opposes the Motion and requests this Court to specifically exclude First National Bank from any order authorizing the Trustee to conduct Bankruptcy Rule 2004 examinations.

Dated: September 11, 2009

MACKALL, CROUNSE & MOORE, PLC

/s/ Andrew P. Moratzka

Andrew P. Moratzka (#0322131)

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ATTORNEYS FOR FIRST NATIONAL
BANK

APM/apm/1109591v1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 09-50779

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Dennis E. Hecker,

AFFIDAVIT OF J. E. GRANDGEORGE

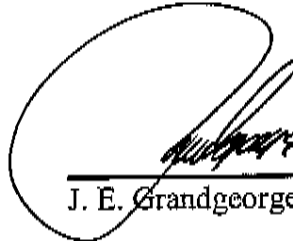
Debtor.

STATE OF MINNESOTA)
) ss
COUNTY OF MURRAY)

J. E. Grandgeorge, having been sworn on oath states as follows:

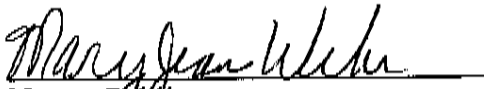
1. I am the Chief Executive Officer of First National Bank.
2. First National Bank reviewed its records and files and was unable to locate any information related to Dennis Hecker or any entity in which First National Bank understands Dennis Hecker was involved.

Dated: September 10, 2009



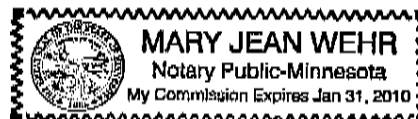
J. E. Grandgeorge

Subscribed and sworn to before me
this 10th day of September 2009.



Notary Public

APM/apm/1109604v1



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bky No. 09-50779
Chapter 7

Dennis E. Hecker,

Debtor.

UNSWORN DECLARATION
FOR PROOF OF SERVICE

Jinah E. Finnes, employed by Mackall, Crounse & Moore, attorney(s) licensed to practice law in this court, with office address of 1400 AT&T Tower, 901 Marquette Avenue, Minneapolis, MN 55402-2859, declares that on the date set forth below, caused the following documents:

Response to Notice of Hearing and Motion for Order Authorizing Rule 2004 Examination and Affidavit of J.E. Grandgeorge

to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the following:

- Kendall L. Bader kbader@fredlaw.com, klbader@yahoo.com
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- Nicholas J. Vivian nvivian@eckbergglammers.com, dneumann@eckbergglammers.com

I further certify that I caused a copy of the foregoing documents and the notice of electronic filing to be mailed by first class mail, postage paid, to the following non-ECF participants:

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And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: September 11, 2009

Signed: /e/ Jinah E. Finnes